

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1383

Introduced by Senator Bowen

February 12, 2002

An act to add Section 17538.35 to the Business and Professions Code, relating to electronic mail.

LEGISLATIVE COUNSEL'S DIGEST

SB 1383, as amended, Bowen. Electronic mail: service providers.

Existing law regulates the sending of unsolicited electronic mail advertisements.

This bill would require an electronic mail service provider to give a customer notice of termination at least 30 days prior to *involuntarily* terminating service, unless the ~~termination is the result of customer nonpayment or the result of a voluntary disconnection by the customer~~ *provider determines that the customer has violated the terms of his or her contract with the provider*. The bill would authorize a customer to bring an action in ~~small claims court~~ *any court of competent jurisdiction* against an electronic mail service provider that violates these provisions for either actual damages or liquidated damages of \$50.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17538.35 is added to the Business and
- 2 Professions Code, to read:

1 ~~17538.35. (a) A provider of electronic mail service shall~~
2 ~~provide a customer with notice of termination at least 30 days prior~~
3 ~~to terminating service.~~

4 ~~(b) The requirement of subdivision (a) does not apply in either~~
5 ~~of the following circumstances:~~

6 ~~(1) Service termination is the result of customer nonpayment~~
7 ~~for service.~~

8 ~~(2) The disconnection of service is voluntary on the part of the~~
9 ~~customer.~~

10 ~~(c)~~

11 *17538.35. (a) Any provider of electronic mail service shall*
12 *provide a customer with notice at least 30 days before involuntarily*
13 *terminating the customer's service, unless the provider determines*
14 *that the customer has violated the terms of his or her contract with*
15 *the provider.*

16 *(b) A customer may bring an action in small claims court any*
17 *court of competent jurisdiction against the provider of electronic*
18 *mail service for a violation of subdivision (a) and may seek either*
19 *actual damages, or liquidated damages in the amount of fifty*
20 *dollars (\$50). The provisions of this section shall be in addition to*
21 *any other remedies or penalties available at law.*

